

No. 2057

United States
Circuit Court of Appeals
For the Ninth Circuit.

THE TOWNE PATENT STEERING WHEEL COM-
PANY, a Corporation,

Appellant,

vs.

DON LEE,

Appellee.

Transcript of Record.

Upon Appeal from the United States Circuit Court for the
Southern District of California, Southern Division.

FILED

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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Names and Addresses of Attorneys.

For Appellant:

FREDERICK S. LYON, Esq., Merchants'
Trust Building, Los Angeles, California.

For Appellee:

HENRY T. HAZARD, Esq., Citizens' National
Bank Building, Los Angeles, California.

CASSELL SEVERANCE, Esq., Citizens' Na-
tional Bank Building, Los Angeles, Califor-
nia.

[Citation (Original).]

UNITED STATES OF AMERICA,—ss.

To Don Lee, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be held at the city of San Francisco, in the State of California, on the 4th day of November, A. D. 1911, pursuant to an order allowing an appeal, entered in the Clerk's office of the Circuit Court of the United States, of the Ninth Judicial Circuit, in and for the Southern District of California, in that certain Action Number 1597, wherein the Towne Patent Steering Wheel Company is complainant and appellant, and you are defendant and appellee, to show cause, if any there be, why the Decree rendered against said appellant, in the said order allowing appeal mentioned, should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Honorable OLIN WELLBORN, United States District Judge for the Southern District of California, and one of the Judges of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, this 7th day of October, A. D. 1911, and of the Independence of the United States, the one hundred and thirty-sixth.

OLIN WELLBORN,
U. S. District Judge, for the Southern District of California.

Due service and receipt of a copy of the within citation is hereby admitted this 9th day of October, 1911.

HENRY T. HAZARD,
CASSELL SEVERANCE,
Solicitors and of Counsel for Defendant.

[Endorsed]: No. —, United States Circuit Court of Appeals for the Ninth Circuit. Towne Patent Steering Wheel Company, Appellant, vs. Don Lee, Appellee. Citation. Filed Oct. 11, 1911. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk.

*United States Circuit Court, Southern District of
California, Southern Division.*

IN EQUITY.

TOWNE PATENT STEERING WHEEL COM-
PANY,

Complainant,

vs.

DON LEE,

Defendant.

Bill of Complaint.

To the Honorable the Judges of the Circuit Court
of the United States, for the Ninth Circuit, in
and for the Southern District of California,
Southern Division.

Towne Patent Steering Wheel Company, a cor-
poration, organized and existing under and by virtue
of the Laws of the State of California, and having
its principal place of business in the city of Los
Angeles, California, brings this its Bill of Com-
plaint against Don Lee, a resident and citizen of Los
Angeles, California, and thereupon complaining
shows unto your Honors:

I.

That heretofore, to wit, prior to November 8th,
1906, one William F. Towne, of Los Angeles, Cali-
fornia, was the original, first and sole inventor of a
certain new and useful Steering Wheel for Auto-
vehicles, not known or used by others before his [2*]
invention or discovery thereof, or patented or de-

*Page-number appearing at foot of page of original Certified Record.

scribed in any printed publication in the United States of America or any foreign country before his invention or discovery thereof, or more than two years prior to his application for Letters Patent thereon in the United States of America, or in public use or on sale in the United States of America for more than two years prior to said application for Letters Patent therefor and not abandoned.

II.

That the said William F. Towne, so being the original, first and sole inventor of said Steering Wheel for Autovehicles, heretofore, to wit, on November 8th, 1906, made application in writing in due form of law to the Commissioner of Patents in accordance with the then existing laws of the United States made and provided, and complied in all respects with the conditions and requirements of said laws, and simultaneously with the making of such application by the said William F. Towne for the said Letters Patent, the said William F. Towne did by an instrument in writing in due form of law, duly signed by the said William F. Towne, and delivered by him to one Charles R. Sumner, of Los Angeles, California, the said William F. Towne did sell, assign, transfer and set over unto the said Charles R. Sumner, an undivided one-half ($\frac{1}{2}$) part of the entire right, title and interest in and to the said invention and the Letters Patent to be granted and issued therefor, and did authorize and request the Commissioner of Patents to issue the said Letters Patent jointly to the said William F. Towne and said Charles R. Sumner, their heirs and assigns; that said

instrument in writing was duly and regularly recorded in the United States Patent Office; that thereafter such proceedings were duly and regularly had and taken in the matter of such application that, to wit, on March 26th, 1907, Letters Patent of the United States of America [3] numbered 848,140 and bearing date the 26th day of March, 1907, were duly and regularly granted and issued by the Government of the United States to the said William F. Towne and Charles R. Sumner, whereby there was granted and secured to the said William F. Towne and Charles R. Sumner, their heirs, legal representatives and assigns, for the full term of seventeen (17) years from and after the 26th day of March, 1907, the sole and exclusive right, liberty and privilege to make, use and vend the said invention throughout the United States of America and the territories thereof; that the said Letters Patent were duly issued in due form of law under the seal of the United States Patent Office and duly signed by the acting Commissioner of Patents, all as will more fully and at large appear from said original Letters Patent or a duly certified copy thereof which are ready in court to be produced by your orator; and that prior to the grant and issuance and delivery of said Letters Patent all proceedings were had and taken which were required by law to be had and taken prior to the issuance of Letters Patent for new and useful inventions.

III.

You orator further shows unto your Honors that by an instrument in writing in due form of law,

signed by the said William F. Towne and Charles R. Sumner, and by them delivered to your orator, the said William F. Towne and Charles R. Sumner did sell, assign, transfer and set over unto your orator the full and exclusive right, title and interest in and to the said Letters Patent and all rights and privileges thereby granted and secured, together with all rights of action, claims or demands arising out of or accruing from the said Letters Patent in any manner whatsoever, including all claims for damages and rights of action growing out of past infringement thereof, if any; and your orator is now the sole and exclusive owner thereof and of all rights thereunder. [4]

IV.

That the said invention so set forth, described and claimed in and by said Letters Patent No. 848,140, aforesaid, is of great value and has been extensively practiced by your orator and your orator's assignors and licensees, and that since the grant, issuance and delivery of said Letters Patent the said Steering Wheel for Autovehicles have gone into great and extensive use and your orator and your orator's assignors, and the licensees of your orator and of your orator's assignors have sold large numbers thereof, and upon each and every one of the Steering Wheels for Autovehicles so manufactured, used or sold by your orator, your orator's assignors, or the said licensees, as aforesaid, the word "Patented" together with the day and date of the issuance of said Letters Patent, to wit, March 26th, 1907, has been marked and stamped thereon, thereby

notifying the public of the said Letters Patent; and the said defendant has been, long prior to the commencement of this suit, notified in writing of the grant, issuance and delivery of said Letters Patent No. 848,140 and of the rights of your orator thereunder, and demand has been made upon him to respect the said Letters Patent and not infringe thereon, but notwithstanding such notice the defendant has continued to make, use and sell Steering Wheels for Autovehicles embodying the said invention, as hereinafter more particularly set forth.

V.

And your orator further shows unto your Honors that the trade and public have generally respected and acquiesced in the validity and scope of the said Letters Patent No. 848,140 and in the exclusive rights of your orator and of your orator's assignors therein and thereunder, and save and except for the infringement thereof of defendant, as hereinafter set forth, your orator and your orator's assignors and licensees have had and enjoyed [5] the exclusive right, liberty and privilege since March 26th, 1907, of manufacturing, using and selling Steering Wheels for Autovehicles embodying and containing the invention described in, set forth and claimed in and by said Letters Patent No. 848,140, and but for the wrongful and infringing acts of defendant, as hereinafter set forth, your orator would now continue to enjoy the said exclusive rights and the same would be of great and incalculable benefit and advantage to your orator.

VI.

And your orator further shows unto your Honors that notwithstanding the premises, but well knowing the same, and without the license or consent of your orator, and in violation of said Letters Patent, and of your orator's rights thereunder, the defendant, Don Lee, has within the year last past, and in the Southern District of California, to wit, in the County of Los Angeles, State of California, and elsewhere, made, used and sold to others to be used, and is now making, using and selling to others to be used Steering Wheel for Autovehicles embodying, containing and embracing the invention described, claimed and patented in and by said Letters Patent No. 848,140, and has infringed upon the exclusive rights secured to your orator by virtue of the said Letters Patent, and that the Steering Wheels for Autovehicles so made, used and sold by defendant were and are infringements upon said Letters Patent, and each of said Steering Wheels for Autovehicles contains in it the said patented invention, and that although requested so to do defendant refuses to cease and desist from the infringement aforesaid and is now making, using and selling Steering Wheels for Autovehicles containing and embracing the said patented invention and intends and threatens to continue so to do, and will continue so to do unless restrained and enjoined by this Court, and is realizing as your orator is informed and believes, large gains, profits [6] and advantages, the exact amount of which is unknown to your orator, but upon information and belief your orator

alleges the same to be the full sum of Ten Thousand Dollars (\$10,000.00); and your orator prays discovery of the said defendant the exact number of Steering Wheels for Autovehicles made, used or sold by defendant and the exact amount of profits and gains derived therefrom by defendant.

That for the wrongs and injuries herein complained of, your orator has no plain, speedy or adequate remedy at law, and is without remedy save in a Court of Equity where matters of this kind are properly cognizable and relievable;

To the end, therefore, that the said defendant, may, if he can, show why your orator should not have the relief herein prayed, and may, according to the best and utmost of his knowledge, recollection, information and belief, but not under oath, (an answer under oath being hereby expressly waived), full, true, direct and perfect answer make to all and singular the matters and things hereinbefore alleged, charged and set forth, and your orator prays that the said defendant may be enjoined and restrained, both provisionally and perpetually, from further infringement upon said Letters Patent and may be decreed to account for and pay over unto your orator the profits and gains realized by defendant from and by reason of said infringement aforesaid, and the damages suffered by your orator by reason thereof, together with the costs and disbursements of this suit.

May it please your Honors to grant unto *you* orator a Writ of Injunction issuing out of and under the seal of this Court, provisionally, and until the final hearing of this cause, enjoining and restraining the

said defendant, Don Lee, his agents, servants, employees, attorneys and associates, and each and every of them, from making, using and selling any Steering [7] Wheels for Autovehicles containing or embracing the said invention patented in and by the said Letters Patent, and that upon the final hearing of this case said provisional injunction be made final and perpetual, and that your orator may have such other and further or different relief as to your Honors may seem proper and in accordance with Equity and good conscience.

May it please your Honors to grant unto your orator the Writ of Subpoena of the United States issuing out of and under the seal of this Court directed to the defendant, Don Lee, commanding him by a day certain, and under a certain penalty, to be and appear before this Honorable Court, then and there to answer this Bill of Complaint, and to stand to, abide by, and perform such other and further orders and decrees in the premises as to your Honors may seem meet.

And your orator will every pray.

TOWNE PATENT STEERING WHEEL
COMPANY,

By F. W. TOWNE,
Its President.

FREDERICK S. LYON,
Solicitor and of Counsel for Complainant. [8]

United States of America,
Southern District of California,
County of Los Angeles,—ss.

William F. Towne, being first duly sworn, deposes and says; that he is the President of the Towne Patent Steering Wheel Company, the complainant in the within-entitled action; that he has read the foregoing Bill of Complaint, and knows the contents thereof; that the same is true of his own knowledge, except as to such matters as are therein stated on information or belief, and as to such matters he believes it to be true.

WILLIAM F. TOWNE.

Subscribed and sworn to before me this 2d day of December, 1910.

[Seal] FRANK L. A. GRAHAM,
Notary Public in and for Los Angeles County, State
of California.

[Endorsed]: No. 1597. United States Circuit Court, Southern District of California, Southern Division. Towne Patent Steering Wheel Company, Complainant, vs. Don Lee, Defendant. In Equity. Bill of Complaint. Filed Dec. 2, 1910. Wm. M. Van Dyke, Clerk. Chas. N. Williams, Deputy. Frederick S. Lyon, 504-7 Merchants Trust Building, Los Angeles, Cal., Solicitor for Complainant. [9]

[Subpoena.]

UNITED STATES OF AMERICA.

*Circuit Court of the United States, Ninth Circuit,
Southern District of California, Southern Division.*

IN EQUITY.

The President of the United States of America,
Greeting, to Don Lee:

YOU ARE HEREBY COMMANDED, that you be and appear in said Circuit Court of the United States aforesaid, at the courtroom in Los Angeles, California, on the second day of January, A. D. 1911, to answer a bill of Complaint exhibited against you in said Court by Towne Patent Steering Wheel Company, a corporation organized and existing under and by virtue of the laws of the State of California, and having its principal place of business in the City of Los Angeles, California, and to do and receive what the said Court shall have considered in that behalf. And this you are not to omit, under the penalty of FIVE THOUSAND DOLLARS.

WITNESS, the Honorable JOHN M. HARLAN, Senior Associate Justice of the Supreme Court of the United States, this 3d day of December, in the year of our Lord one thousand nine hundred and ten and our Independence the one hundred and thirty-fifth.

[Seal]

WM. M. VAN DYKE,

Clerk.

By Harry H. Jones,

Deputy Clerk. [10]

MEMORANDUM PURSUANT TO RULE 12,
SUPREME COURT U. S.

YOU ARE HEREBY REQUIRED, to enter your appearance in the above suit, on or before the first Monday of January next, at the Clerk's Office of said court pursuant to said Bill; otherwise the said Bill will be taken *pro confesso*.

WM. M. VAN DYKE,
Clerk.

By Harry H. Jones,
Deputy Clerk.

Clerk's Office: Los Angeles, California.

United States Marshal's Office,
Southern District of California.

I HEREBY CERTIFY, that I received the within writ on the 7th day of December, 1910, and personally served the same on the 7th day of December, 1910, on Don Lee by delivering to and leaving with Don Lee said defendant named therein, personally, at the County of Los Angeles in said district, a copy thereof.

Los Angeles, Dec. 7th, 1910.

LEO V. YOUNGWORTH,
U. S. Marshal.

By B. H. Franklin,
Deputy.

[Endorsed]: Original. Marshal's Civil Docket No. 1604. No. 1597. U. S. Circuit Court, Ninth Circuit, Southern District of California, Southern Division. In Equity. Towne Patent Steering Wheel Co. vs. Don Lee, Subpoena. Filed Dec. 7,

1910. Wm. M. Van Dyke, Clerk. Chas. N. Williams, Deputy. [11]

*United States Circuit Court, Southern District of
California, Southern Division.*

IN EQUITY—No. 1597.

TOWNE PATENT STEERING WHEEL CO.,
Complainant,

vs.

DON LEE,

Defendant.

Demurrer.

The demurrer of Don Lee, the defendant above named:

This defendant, by protestation, not confessing or acknowledging all or any of the matters and things in the said bill of complaint contained to be true in such manner and form as the same are therein set forth and alleged, demurs thereto, and for causes of demurrer, shows:

1. That it appears by complainant's own showing by the said bill that it is not entitled to the relief prayed by said bill against the defendant.

2. That the claims made in said Letters Patent, numbered 848,140, dated March 26, 1907, as alleged in said complaint, show on their face the lack of patentable novelty,

3. That the said claims show by their express limitations that it is not new, to roughen the surfaces of steering wheels.

4. That the said letters patent in suit are invalid and void, because the improvements therein set forth lack invention and did not require the exercise of the inventive faculty. [12]

5. That the said claims in the said patent, are ambiguous, unintelligible and uncertain, in this: it is not described in the said specification and drawings, in such clear and exact terms as to enable anyone skilled in the art, to which the invention pertains to practise the invention; and particularly to distinguish it from the prior state of the art.

Wherefore, and for divers other good causes of demurrer appearing in said bill, this defendant demurs thereto and humbly prays the judgment of this Court whether he shall be compelled to make any further or other answer to the said bill; and prays to be hence dismissed with his costs and charges in this behalf most wrongfully sustained.

CASSELL SEVERANCE,
Solicitor for Defendant.

HENRY T. HAZARD,
EDWARD W. VAILL,
Of Counsel.

I hereby certify that in my opinion the foregoing demurrer is well founded in point of law.

HENRY T. HAZARD,
Of Counsel for Defendant.

United States of America,
Southern District of California,
County of Los Angeles,—ss.

Don Lee, being first duly sworn, deposes and says, that he is the above-named defendant, and that the

foregoing demurrer is not interposed for delay, and that the same is true in point of fact.

DON LEE.

Subscribed and sworn to before me this 16th day of January, 1911.

[Seal] EARLE L. POLLARD,
Notary Public in and for the County of Los Angeles,
State of California. [13]

[Endorsed]: Original. No. 1597. United States Circuit Court, Southern District of California, Southern Division. Towne Patent Steering Wheel Co., Plaintiff, vs. Don Lee, Defendant. Demurrer. Received Copy of Within Demurrer this 2d day of February, 1911. Frederick S. Lyon, Solr. for Complainant. Filed Feb. 2, 1911. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Cassell Severance, Solicitor for Defendant. Henry T. Hazard, Counsel for Defendant. [14]

[Order Sustaining Demurrer, etc.]

At a stated term, to wit, the January Term, A. D. 1911, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, Southern Division, held at the courtroom, in the City of Los Angeles, on Monday, the twenty-sixth day of June, in the year of our Lord one thousand nine hundred and eleven. Present: The Honorable OLIN WELLBORN, District Judge.

No. 1597.

TOWNE PATENT STEERING WHEEL COM-
PANY,

Complainant,

vs.

DON LEE,

Defendant.

This cause coming on this day to be heard on defendant's demurrer to complainant's bill of complaint, Frederick S. Lyon, Esq., appearing as counsel for complainant, and Cassell Severance, Esq., appearing as counsel for defendant, and said demurrer having been argued in support thereof by Cassell Severance, Esq., of counsel as aforesaid for defendant, and in opposition thereto by Frederick S. Lyon, Esq., of counsel as aforesaid for complainant, it is now by the Court ordered, that said demurrer be, and the same hereby is, sustained; on motion of counsel for complainant, it is ordered, that complainant have thirty (30) days in which to amend its bill of complaint in case it shall be so advised.

[Endorsed]: No. 1597. U. S. Circuit Court, Ninth Circuit, Southern District of California, Southern Division. Towne Patent Steering Wheel Company, Complainant, vs. Don Lee, Defendant. Copy of Order Sustaining Demurrer. [15]

[**Enrollment.**]

*In the Circuit Court of the United States, Ninth
Judicial Circuit, Southern District of California,
Southern Division.*

No. 1597.

TOWNE PATENT STEERING WHEEL COM-
PANY,

Complainant,

vs.

DON LEE,

Defendant.

The complainant filed its bill of complaint herein on the 2d day of December, 1910, which is hereto annexed;

A subpoena to appear and answer in said cause was thereupon, on said 2d day of December, 1910, issued, returnable on the 2d day of January, 1911, which is hereto annexed;

The defendant appeared herein on the 2d day of January, 1911, by Cassell Severance, Esq., his solicitor, and Henry T. Hazard, Esq., and Edw. Vaill, Esq., his counsel;

The demurrer of defendant to complainant's bill of complaint, was filed herein on the 2d day of February, 1911, and is hereto annexed;

On the 26th day of June, 1911, the Court made and entered an order herein, sustaining the demurrer to the bill of complaint, a copy of which order is hereto annexed;

On the 8th day of September, 1911, on the motion

of counsel for defendant, the Court made and entered an order herein for a Final Decree in favor of defendant and against complainant, and accordingly on said 8th day of September, 1911, a Final Decree pursuant to said order was signed, filed, entered and recorded herein, and is hereto annexed. [16]

At a stated term of the Circuit Court of the United States, in and for the Southern District of California, Southern Division, held in the city of Los Angeles, California, on the 8th day of September, 1911. Present: Honorable OLIN WELLBORN, Judge.

IN EQUITY—No. 1597.

TOWNE PATENT STEERING WHEEL CO.,
Complainant,

vs.

DON LEE,

Defendant.

Decree.

This cause having come on to be heard upon the Bill of Complaint herein, and defendant's demurrer thereto, and after hearing Frederick S. Lyon, Esq., of counsel for complainant, and Cassell Severance, Esq., of counsel for defendant; and the Court after due consideration thereof, having on the 26th day of June, 1911, ordered that the demurrer be sustained, and having granted complainant thirty (30) days in which to amend his Bill of Complaint and the time to amend having now expired without the filing of an amended bill, on motion of defendant's solicitor;

It is ordered, adjudged and decreed, and the Court doth hereby order, adjudge and decree, as follows, to wit:

That the patent in suit, issued to William F. Towne and Charles R. Sumner, No. 848,140, March 26, 1907, is invalid and void on its face for want of patentable invention.

That no infringement as complained of in the said Bill of Complaint, is chargeable against the defendant, Don Lee. [17]

That the demand for an answer to the said Bill of Complaint, and an accounting of profits and damages, and the prayer for an injunction, provisional and perpetual, or any other relief, is denied the complainant herein.

That said complaint be and is hereby dismissed.

That the Towne Patent Steering Wheel Co., Complainant, herein recover nothing by this its action against Don Lee, the defendant herein.

And it is further ordered, adjudged and decreed that the defendant recover of the said complainant the costs and disbursements of this suit taxed at \$35.10.

Dated at Los Angeles, California, this 8th day of September, 1911.

OLIN WELLBORN,
United States Judge.

Decree entered and recorded September 8th, 1911.

WM. M. VAN DYKE,
Clerk.

By John T. Goolrick, Jr.,
Deputy Clerk.

[Endorsed]: No. 1597. United States Circuit Court, Southern District of California, Southern Division. Towne Patent Steering Wheel Co., Plaintiff, vs. Don Lee, Defendant. Decree. Filed Sep. 8, 1911. Wm. M. Van Dyke, Clerk. By John T. Goolrick, Jr., Deputy Clerk. Cassell Severance, Solicitor for Defendant. [18]

[Certificate of Enrollment.]

Whereupon, said bill of complaint, subpoena, demurrer, copy of order sustaining demurrer to the bill of complaint, and said Final Decree are hereto annexed;—the said Final Decree being duly signed, filed and enrolled pursuant to the practice of said Circuit Court.

Attest, etc.

[Seal]

WM. M. VAN DYKE,

Clerk.

By John T. Goolrick, Jr.,

Deputy Clerk.

[Endorsed]: No. 1597. In the Circuit Court of the United States, Ninth Judicial Circuit for the Southern District of California, Southern Division. Towne Patent Steering Wheel Company vs. Don Lee, Enrolled Papers. Filed September 8, 1911. Wm. M. Van Dyke, Clerk. By John T. Goolrick, Jr., Deputy Clerk. Recorded, Decree Register Book No. 3, page 447. [19]

[Petition for Order Allowing Appeal.]

*United States Circuit Court, Southern District of
California, Southern Division.*

IN EQUITY.

TOWNE PATENT STEERING WHEEL COM-
PANY,

Complainant,

vs.

DON LEE,

Defendant.

The complainant in the above-entitled suit conceiving itself aggrieved by the decree made and entered by said Court in the above-entitled cause on the 8th day of September, 1911, dismissing complainant's Bill of Complaint in said suit, comes now, by Frederick S. Lyon, Esq., its solicitor and counsel, and petitions said Court for an order allowing it to prosecute an appeal from said decree dismissing said Bill, to the Honorable, the United States Circuit Court of Appeals for the Ninth Circuit, under and according to the laws of the United States in that behalf made and provided; and also that an order be made fixing the sum of security which complainant shall give and furnish upon such an appeal.

And your petitioner will ever pray.

FREDERICK S. LYON,

Solicitor and of Counsel for Complainant.

[Endorsed]: No. 1597. United States Circuit Court, Southern District of California, Southern Division. Towne Patent Steering Wheel Company,

Complainant, vs. Don Lee, Defendant. In Equity. Petition for Appeal. Filed Sep. 12, 1911. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Frederick S. Lyon, 504-7 Merchants Trust Building, Los Angeles, Cal., Solicitor for Complainant. [20]

United States Circuit Court, Southern District of California, Southern Division.

IN EQUITY.

TOWNE PATENT STEERING WHEEL COMPANY,

Complainant,

vs.

DON LEE,

Defendant.

Assignments of Error.

Comes now the complainant above named and specifies and assigns the following as the errors upon which it will rely upon its appeal to the United States Circuit Court of Appeals for the Ninth Circuit, upon the decree dismissing complainant's Bill of Complaint, which decree was made and entered in this court on September 8th, 1911:

1. The Circuit Court of the United States for the Ninth Circuit, Southern District of California, Southern Division, erred in dismissing said Bill of Complaint.

2. The Circuit Court of the United States for the Ninth Circuit, Southern District of California, Southern Division, erred in finding that the Towne

Patent No. 848,140 was void upon its face for want of patentable invention.

3. The Circuit Court of the United States for the Ninth Circuit, Southern District of California, Southern Division, erred in finding that the Towne Patent No. 848,140 was void upon its face for want of patentable novelty.

In order that the foregoing Assignments of Error may be and appear of record the complainant presents the same to the Court and prays that such disposition may be made thereof as is in accordance with the laws of the United States. [21]

WHEREFORE, the said complainant prays that said decree dismissing said Bill of Complaint be reversed, and that the United States Circuit Court for the Southern District of California, Southern Division, be directed to enter an order setting aside the said decree and ordering defendant to answer, and that said suit be heard upon its merits.

All of which we respectfully submit.

FREDERICK S. LYON,

Solicitor and of Counsel for Complainant.

Due and personal service and receipt of a copy of the foregoing Assignments of Error is hereby acknowledged and accepted this — day of September, 1911.

Solicitors and of Counsel for Defendant.

[Endorsed]: No. 1597. United States Circuit Court, Southern District of California, Southern Division. Towne Patent Steering Wheel Company,

Complainant, vs. Don Lee, Defendant. In Equity. Assignments of Error. Filed Sep. 12, 1911. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Frederick S. Lyon, 504-7 Merchants Trust Building, Los Angeles, Cal., Solicitor for Complainant. [22]

United States Circuit Court, Southern District of California, Southern Division.

IN EQUITY.

TOWNE PATENT STEERING WHEEL COMPANY,

Complainant,

vs.

DON LEE,

Defendant.

Order Allowing Appeal, etc.

In the above-entitled cause the complainant having filed its petition for an order allowing an appeal, together with an Assignment of Errors;

NOW, upon motion of Frederick S. Lyon, Esq., solicitor for complainant, it is ordered that the said appeal be and is hereby allowed to the said complainant, to the United States Circuit Court of Appeals for the Ninth Circuit, from the decree made and entered in this Court on the 8th day of September, 1911, dismissing complainant's Bill of Complaint, with costs, and that the amount of complainant's bond on said appeal be, and the same is hereby fixed at the sum of Two Hundred and Fifty (\$250.00) Dollars.

It is further ordered, that upon the filing of such security a certified transcript of the records and proceedings herein be forthwith transmitted to said United States Circuit Court of Appeals for the Ninth Circuit.

Dated September 12th, 1911.

OLIN WELLBORN,

Judge. [23]

[Endorsed]: No. 1579. United States Circuit Court, Southern District of California, Southern Division. Towne Patent Steering Wheel Company, Complainant, vs. Don Lee, Defendant. In Equity. Order Allowing Appeal. Filed Sep. 12, 1911. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Frederick S. Lyon, 504-7 Merchants Trust Building, Los Angeles, Cal., Solicitor for Complainant. [24]

[Bond.]

In the United States Circuit Court, for the Ninth Circuit, Southern District of California, Southern Division.

TOWNE PATENT STEERING WHEEL COMPANY,

Complainant,

vs.

DON LEE,

Defendant.

KNOW ALL MEN BY THESE PRESENTS, that United States Fidelity and Guaranty Company, a corporation organized and existing under the laws of the State of Maryland, and duly licensed to trans-

act business in the State of California, is held and firmly bound unto Don Lee, defendant in the above-entitled suit, in the penal sum of Two Hundred and Fifty Dollars (\$250.00) to be paid to the said Don Lee, his heirs and assigns for which payment, well and truly to be made, the United States Fidelity and Guaranty Company binds itself, its successors and assigns firmly by these presents.

Sealed with its corporate seal and dated this 6th day of October, 1911.

The condition of the above obligation is such that whereas the said Towne Patent Steering Wheel Company, complainant in the above-entitled suit, is about to take an appeal to the Circuit Court of Appeals for the Ninth Circuit to reverse a final decree made, rendered and entered by the Circuit Court of the United States for the Southern District of California, Southern Division, in the above-entitled cause by which the Complainant's Bill of Complaint was dismissed and judgment ordered in favor of the defendant, Don Lee, for costs: [25]

NOW, THEREFORE, the condition of the above obligation is such that if the Towne Patent Steering Wheel Company shall prosecute its said appeal to effect and answer all costs which may be adjudged against it if it fail to make good its appeal, then this obligation shall be void; otherwise to remain in full force and effect.

THE UNITED STATES FIDELITY AND
GUARANTY COMPANY.

By GUY B. BARHAM, [Seal]

Attorney in Fact.

Attest: _____.

State of California,
County of Los Angeles,—ss.

Personally appeared before me Guy B. Barham, on this 6th day of October, 1911, known to me to be the attorney in fact of the United States Fidelity and Guaranty Company, the corporation described in and which executed the foregoing bond, and who being duly sworn, according to law, deposes and says: that he resides at Los Angeles, in the State of California; that he is attorney in fact of The United States Fidelity and Guaranty Company and knows the corporate seal thereof; that the said company is duly and legally incorporated under the laws of the State of Maryland, and duly licensed to transact business in the State of California; that the seal affixed to the foregoing bond is the corporate seal of the United States Fidelity and Guaranty Company and thereto affixed by order and authorization of the Executive Committee of said company; that he signed his name thereto by like order and authority and that she is acquainted with Guy B. Barham and knows him to be the attorney in fact of said company, and that the signature of said Guy B. Barham, subscribed to said Bond is in the genuine handwriting of said Guy B. Barham and was thereto subscribed in the presence of this Deponent.

Notary Public in and for the County of Los Angeles,
State of California. [26]

Subscribed and sworn to before me this 6th day of October, 1911.

[Seal] V. M. HUTCHINS,
Notary Public in and for Los Angeles County, State
of California.

Approved.

OLIN WELLBORN,
Judge.

[Endorsed]: No. 1579. United States Circuit Court for the Ninth Circuit, Southern District of California, Southern Division. Towne Patent Steering Wheel Company, Complainant, vs. Don Lee, Defendant. Bond. Filed Oct. 7, 1911. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Frederick S. Lyon, 504-7 Merchants Trust Building, Los Angeles, Cal., Attorney for Complainant. [27]

[Certificate of Clerk U. S. Circuit Court to Transcript
of Record, etc.]

*In the Circuit Court of the United States of America,
of the Ninth Judicial Circuit, in and for the
Southern District of California, Southern Division.*

No. 1597.

TOWNE PATENT STEERING WHEEL COM-
PANY,

Complainant,

vs.

DON LEE,

Defendant.

I, Wm M. Van Dyke, Clerk of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, do hereby certify the foregoing twenty-seven typewritten pages, numbered from 1 to 27, inclusive, and comprised in one volume, to be a full, true and correct copy of the pleadings and of all papers and proceedings upon which a Final Decree was made and entered in said cause, the Petition for Appeal, Assignment of Errors, Order Allowing Appeal and Bond on Appeal in the above and therein entitled cause, and that the same together constitute the Transcript of the Record on Appeal to the United States [28] Circuit Court of Appeals for the Ninth Circuit, in said cause;

I do further certify that the cost of the foregoing record is \$20.95, the amount whereof has been paid me by the Towne Patent Steering Wheel Company, the Appellant in said cause.

In testimony whereof, I have hereunto set my hand and affixed the seal of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, Southern Division, this 21st day of October, in the year of our Lord one thousand nine hundred and eleven, and of our independence the one hundred and thirty-sixth.

[Seal]

WM. M. VAN DYKE,

Clerk of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California. [29]

[Endorsed]: No. 2057. United States Circuit Court of Appeals for the Ninth Circuit. The Towne Patent Steering Wheel Company, a Corporation, Appellant, vs. Don Lee, Appellee. Transcript of Record. Upon Appeal from the United States Circuit Court for the Southern District of California, Southern Division.

Filed October 26, 1911.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

[Order Enlarging Time to Docket Cause and File
Record.]

*United States Circuit Court of Appeals, for the
Ninth Circuit.*

TOWNE PATENT STEERING WHEEL COM-
PANY,

Appellant,

vs.

DON LEE,

Appellee.

Good cause appearing therefor, it is hereby ordered, that the time heretofore allowed said appellant to docket said cause and file the record thereof with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, be, and the same hereby is enlarged and extended to and including the 14th day of November, 1911.

Los Angeles, California, October 7th, 1911.

OLIN WELLBORN,

United States District Judge for the Southern Dis-
trict of California.

[Endorsed]: No. 2057. United States Circuit Court of Appeals for the Ninth Circuit. Towne Patent Steering Wheel Company, Appellant, vs. Don Lee, Appellee. Order Extending Time to Docket Appeal. Filed Oct. 9, 1911. F. D. Monckton, Clerk. Refiled Oct. 26, 1911. F. D. Monckton, Clerk.

[**Stipulation for Continuance to May, 1912, Session,
for Filing of Printed Copies of Patent in Suit,
etc.**]

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

No. 2057.

THE TOWNE PATENT STEERING WHEEL
COMPANY, a Corporation,

Appellant,

vs.

DON LEE,

Appellee.

Inasmuch as the transcript of record certified to this court from the Circuit Court does not contain a copy of the patent in suit, and therefore no copy thereof appears in the printed transcript of record, and in order to review the decree appealed from such patent must be before the Court, and it being impractical for the parties to produce the necessary copies of said patent to complete the record and to brief the case on or before February 7th, 1912, the date upon which said cause is now set for hearing, it is hereby stipulated by and between the parties to said cause that the said cause be continued from the February, 1912, term of said court to the May, 1912, term of said court, and that in lieu of a writ of certiorari for diminution of the record, the appellant shall file thirty printed copies of the patent in suit and the same shall be bound with this stipulation as a supplement to the record.

Dated Los Angeles, California, January 24th,
1912.

FREDERICK S. LYON,
Solicitor and of Counsel for Appellant.
CASSELL SEVERANCE,
HENRY T. HAZARD,
Solicitors and of Counsel for Appellee.

[Endorsed]: No. 2057. United States Circuit Court of Appeals for the Ninth Circuit. Towne Patent Steering Wheel Company vs. Don Lee. Stipulation for Continuance of Case to May, 1912, Session, etc. Filed Jan. 25, 1912. F. D. Monckton, Clerk.

At a stated term, to wit, the October term, A. D. 1911, of the United States Circuit Court of Appeals for the Ninth Circuit, held at the courtroom, in the City and County of San Francisco, on Monday, the fifth day of February, in the year of our Lord one thousand nine hundred and twelve. Present: The Honorable WILLIAM B. GILBERT, Circuit Judge; Honorable ERSKINE M. ROSS, Circuit Judge; Honorable WILLIAM W. MORROW, Circuit Judge.

No. 2057.

THE TOWNE PATENT STEERING WHEEL
COMPANY (a Corporation),

Appellant,

vs.

DON LEE,

Appellee.

Order Continuing Appeal for Hearing and Allowing Filing of Copies of Patent in Suit, etc.

Pursuant to the stipulation of counsel, filed January 25, 1912, it is ORDERED that the appeal in the above-entitled cause be, and hereby is, continued from February 7, 1912, to the May, 1912, session of the court, and that, in lieu of the issuance of a writ of certiorari for diminution of record, and return thereto, the appellant be, and hereby is, allowed to file thirty printed copies of the patent in suit, one of which printed copies, together with a printed copy of said stipulation and of this order, shall be bound in each of the printed copies of the record on file as a supplement thereto, and the surplus copies of such supplemental matter shall be distributed to counsel.

**Patent Drawings and Specifications of Letters
Patent No. 848,140.**

STEERING WHEEL FOR AUTOVEHICLES.

W. F. TOWNE.

PATENTED MAR. 26, 1907.

APPLICATION FILED NOV. 9, 1906.

Fig. 1.

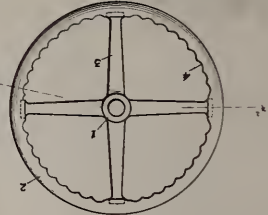


Fig. 3.

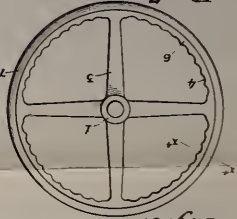


Fig. 5.

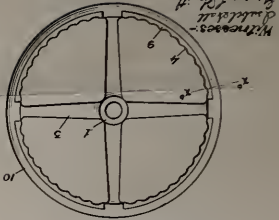


Fig. 2.

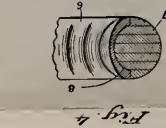


Fig. 4.

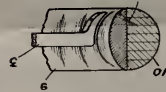


Fig. 6.

William F. Towne
in ally
By Thomas A. Buckley, Atty.

UNITED STATES PATENT OFFICE.

WILLIAM F. TOWNE, OF LOS ANGELES, CALIFORNIA, ASSIGNOR OF ONE-HALF TO CHARLES R. SUMNER, OF LOS ANGELES, CALIFORNIA.

No. 948,140. Specification of Letters Patent. Patented March 26, 1907.

STEERING-WHEEL FOR AUTOVEHICLES.

The all whom it may concern.

Be it known that I, WILLIAM F. TOWNE, a citizen of the United States, residing at Los Angeles, in the county of Los Angeles, State of California, have invented a new and useful Steering-Wheel for Automobiles, of which the following is a specification.

To provide a steering-wheel for automobiles in and the like, with means for improving the special object of the invention is to provide means for firmly holding the wheel when it tends to turn violently, as when the automobile is running at a high speed and on a more or less rough road.

A further object of the invention is to provide such means in a convenient, simple, and cheap form.

Referring to Figs. 1 and 2, the steering-wheel comprises the usual hub 1, rim 2, and spokes 3, and rim being preferably of wood. Referring to Figs. 1 and 2, the steering-wheel is a section on line x-x', Fig. 2, and Fig. 3 is a section on line x-x', Fig. 1. Fig. 3 is a plan showing another form of the invention. Fig. 4 is a section on line x-x', Fig. 4, wherein the indentations 4 are formed in a supporting metallic are-shaped member 5, inserted in a wooden outer rim 10, which is secured to the spokes 3, as in Fig. 1, by screws 11. The member 5 being fastened to the rim 10 in such a manner that the indentations 4 are formed in a supporting metallic are-shaped member 5, inserted in a wooden outer rim 10, which is secured to the spokes 3, as in Fig. 1, by screws 11.

On the inner face of said rim, preferably around the complete circumference thereof, are provided finger-grip means, consisting of notches or indentations 4, formed in said inner face. This rim is preferably the usual wooden rim and is circular, these notches being formed simply by indentations in the nature of grooves. In general, the wheel will be in general grips, thereon in the nature of grooves.

As a steering-wheel having a rim composed of metal and outer members, the outer member being supported in and by the inner member and having a smooth outer surface, 90 such as in running on a rough road or at high speed, where the wheel is subject to a sudden jar or jolt due to swerving of the steering-wheel, but in case of an emergency, the outer face; but in case of an emergency, the wheel will be in general grips, thereon in the nature of grooves.

As a steering-wheel having a rim composed of metal and outer members, the outer member being supported in and by the inner member and having a smooth outer surface, 90 such as in running on a rough road or at high speed, where the wheel is subject to a sudden jar or jolt due to swerving of the steering-wheel, but in case of an emergency, the outer face; but in case of an emergency, the wheel will be in general grips, thereon in the nature of grooves.

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WILLIAM F. TOWNE.

ARTHUR P. KNIGHT.

FRANK L. A. GRAYMAN.

In presence of—
 WILLIAM F. TOWNE.
 ARTHUR P. KNIGHT.
 FRANK L. A. GRAYMAN.

In presence of—
 WILLIAM F. TOWNE.
 ARTHUR P. KNIGHT.
 FRANK L. A. GRAYMAN.

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